



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: May 22, 2003 REPORT NO. 03-106

ATTENTION: Committee on Natural Resources and Culture
Agenda of May 28, 2003

SUBJECT: City of San Diego Archaeological Curation Requirements

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

BACKGROUND

In response to the Committee on Natural Resources and Culture's request, this report provides a description of the City's regulations and guidelines regarding curation of archaeological artifacts. The report also provides an explanation of how the City complies with the California and Federal Native American Graves Protection Act (NAGPRA).

DISCUSSION

The City of San Diego's Historical Resources Regulations and Guidelines, adopted as part of the Land Development Code in January 2000, contain requirements for curation of archaeological artifacts. These requirements implement the goals and recommendations of the Cultural Resources Element of the Progress Guide and General Plan. Specifically, the regulations require that all original maps, field notes, non-burial related artifacts, catalog information and final reports must be curated at an institution within San Diego County. Qualified institutions are those with proper facilities and staffing for insuring research access to the collections, consistent with federal standards. At the time the regulations were approved, there were no qualified institutions in San Diego County that could accept additional collections, the City required the historical resource consultant to be responsible for temporary curation until such time as a regional facility became available. Arrangements for long-term curation were required between the applicant/property owner and the consultant prior to initiation of the field reconnaissance.

In addition to the above general requirements for curation, implementation of a Mitigation, Monitoring and Reporting Program (MMRP) is required for all public and private projects that have the potential to impact historical resources. This program provides clear direction to applicants and their historical resource consultants regarding pre- and post construction MMRP implementation protocol coordination with DSD's Mitigation Monitoring Coordination Section (MMC). Specifically, the MMRP states the following for curation:

Post Construction

Handling and Curation of Artifacts and Letter of Acceptance

- *The Archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to MMC; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.*
- *Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with the Land Development Review Division of the Development Services Department and with the Native American representative, as applicable.*

Curation of artifacts associated with both public and private projects as indicated above will ensure compliance with the certified environmental document and MMRP approved and adopted by the decision-maker, as well as with all state and federal regulations. Copies of typical public project and private project mitigation monitoring and reporting programs are attached (Attachment Nos. 1 and 2).

The Federal NAGPRA and its implementing regulations (43 CFR Part 10) address the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations (collectively referred to as parties with standing) to Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony (collectively referred to as cultural items). It requires federal agencies and museums (institutions that receive federal funds) to provide information about Native American cultural items to parties with standing and, upon presentation of a valid request, dispose of or repatriate these objects to them. For both public and private projects where the funding source is derived from federal sources, the applicant is required to comply with all federal regulations pursuant to the National Environmental Policy Act (NEPA). This includes compliance with federal regulations addressing curation such as 36 CFR 79.

California NAGPRA (AB 978) was introduced into the legislature in 2001 to assist with the repatriation of California Indian remains. Currently, there are no state laws governing Native American repatriation. This bill supplements the federal regulations specifically for California. In addition, the California Historical Resources Commission (CHRC) adopted "Guidelines for the Curation of Archaeological Resources" in May 1993 pursuant to the mandate contained in Public Resources Code, Section 5020.5(b). These guidelines apply to archeological collections

and associated records created pursuant to environmental laws and regulations such as CEQA. Although CEQA currently does not contain specific language pertaining to curation, compliance with both the Federal and California NAGPRA is required through the City's environmental review process.

While staff imposes these requirements on projects that have the potential to impact historical resources, current staffing levels are not sufficient to insure that all project mitigation has been complied with, particularly long-term mitigation. With limited resources, we have only been able to get a limited monitoring program organized, collect past mitigation monitoring and reporting programs, and create a data base of projects with mitigation requirements. For curation, staff has had to rely upon the qualified Archaeologist (meeting the minimum requirements outlined in the City's Historical Resources Guidelines) and the agreement with the property owner to insure long-term curation of discovered artifacts. Recent City Council action on proposed revenues and staffing, however, would increase the City's capacity to more adequately monitor compliance with these requirements. On May 20, 2003 the City Council approved the first reading of a proposed Long-Term Permit Monitoring fee and associated staffing. Should City Council approve this item upon its second reading the fee would go into effect in September 2003. The staffing supported by this proposed revenue will be responsible to monitor project compliance with stormwater, environmental mitigation, slope revegetation and other permit conditions on an ongoing basis after projects have been completed. This would include the curation of historical resources.

These additional resources in FY 2004 would enable staff to begin verification that long-term curation requirements are being met, and at the same time, begin to reduce the back log of checking past projects' compliance with curation requirements that are a condition of those permit approvals.

Respectfully submitted,

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Development Services Director

Approved: P. Lamont Ewell
Assistant City Manager

TPC/KGB

Attachments: 1 - Public Projects Mitigation Monitoring and Reporting Program
2 - Private Projects Mitigation Monitoring and Reporting Program

Public Projects Mitigation Monitoring and Reporting Program

HISTORICAL RESOURCES (ARCHAEOLOGY)

Prior to Preconstruction (Precon) Meeting

1. Land Development Review (LDR) Plan Check
 - a. Prior to the first Precon Meeting, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for Archaeological Monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.
2. Letters of Qualification have been submitted to ERM
 - a. Prior to the first Precon Meeting, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Historical Resources Guidelines (HRG), has been retained to implement the monitoring program. **If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.**
3. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC)
 - a. At least thirty days prior to the Precon Meeting a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Archaeological Monitoring of the project.
 - b. MMC will provide Plan Check with a copy of both the first and second letter.
4. Records Search Prior to Precon Meeting
 - a. At least thirty days prior to the Precon Meeting the qualified Archaeologist shall verify that a records search has been completed and updated as necessary and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

Precon Meeting

1. Monitor Shall Attend Precon Meetings
 - a. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Archaeologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

- b. If the Monitor is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for MMC, EAS staff, as appropriate, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.
2. Units of Measure and Cost of Curation for CIP or Other Public Projects
 - a. Units of measure and cost of curation will be discussed and resolved at the Precon Meeting prior to start of any work that requires monitoring.
3. Identify Areas to be Monitored
 - a. At the Precon Meeting, the Archaeologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored as well as areas that may require delineation of grading limits.
4. When Monitoring Will Occur
 - a. Prior to the start of work, the Archaeologist shall also submit a construction schedule to MMC through the RE or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

During Construction

1. Monitor Shall be Present During Grading/Excavation
 - a. The qualified Archaeologist shall be present full-time during grading/excavation of native soils and shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC.
2. Monitoring of Trenches Will Include Mainline, Laterals, and all Appurtenances
 - a. Monitoring of trenches is required for the mainline, laterals, services and all other appurtenances that impact native soils one foot deeper than existing as detailed on the plans or in the contract documents identified by drawing number or plan file number. *It is the Construction Manager's responsibility to keep the monitors up-to-date with current plans.*
3. Discoveries
 - a. Discovery Process
 - (1) In the event of a discovery, and when requested by the Archaeologist, or the PI if the Monitor is not qualified as a PI, the RE or BI, as appropriate, shall be contacted and shall divert, direct or temporarily halt ground disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant archaeological resources. The PI shall also immediately notify MMC of such findings at the time of discovery. MMC will coordinate with appropriate LDR staff.
 - b. Determination of Significance

- (1) The significance of the discovered resources shall be determined by the PI in consultation with LDR and the Native American Community, if applicable. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant archaeological resources, a Research Design and Data Recovery Program shall be prepared, approved by DSD and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.

c. Minor Discovery Process for Pipeline Projects

For all projects: The following is a summary of the criteria and procedures related to the evaluation of **small historic deposits** during excavation for pipelines.

(1) Coordination and Notification

- (a) Archaeological Monitor shall notify RE, or BI, as appropriate, PI, if monitor is not qualified as a PI, and MMC.
- (b) MMC shall notify the Senior Planner in the Environmental Analysis Section (EAS) of DSD..
- (c) MMC shall coordinate all historic discoveries with the applicable Senior Planner, PI and the RE, to determine the appropriate level of evaluation that should occur.

(2) Criteria used to Determine if it is a Small Historic Deposit

- (a) The deposit is limited in size both in length and depth; and,
- (b) The information value is limited and is not associated with any other resources.; and,
- (c) There are no unique features/artifacts associated with the deposit.
- (d) A preliminary description and photographs, if available, shall be transmitted to MMC.
- (e) MMC will forward the information to EAS for consultation and verification that it is a small historic deposit.

(3) Procedures for documentation, curation and reporting

The following constitutes adequate mitigation of a small historic deposit to reduce impacts due to excavation activities to below a level of significance.

- (a) 100% of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated.
- (b) The remainder of the deposit within the limits of excavation (trench walls) shall be left intact.
- (c) If site significance can not be determined, the Final Results Report and Site Record (DPR Form 523A/B) shall identify the deposit as “potentially significant”.
- (d) The Final Results Report shall include a requirement for monitoring of any future work in the vicinity.

4. Human Remains

If human remains are discovered, work shall halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) will be taken:

- a. Notification
 - (1) Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
 - (2) The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.
 - b. Isolate discovery site
 - (1) Work will be directed from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
 - (2) The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.
 - (3) If a field examination is not warranted, the Medical Examiner shall determine with input from the PI, if the remains are or are most likely to be of Native American origin.
 - c. If Human Remains are determined to be Native American
 - (1) The Medical Examiner shall notify the Native American Historic Commission (NAHC). By law, **ONLY** the Medical Examiner can make this call.
 - (2) The NAHC will contact the PI within 24 hours or sooner, after Medical Examiner has completed coordination.
 - (3) NAHC will identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information..
 - (4) The PI will coordinate with the MLD for additional consultation.
 - (5) Disposition of Native American Human Remains will be determined between the MLD and the PI, IF:
 - (a) The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
 - (b) The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.
 - d. If Human Remains are **NOT** Native American
 - (1) The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
 - (2) The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
5. Night Work
- a. If night work is included in the contract
 - (1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.

(2) The following procedures shall be followed.

(a) No Discoveries

In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.

(b) Minor Discoveries

All Minor Discoveries will be processed and documented using the existing procedures under **During Construction**; 3. c., for Small Historic Discoveries, with the exception in **During Construction**; 3. c. (1)(a), that the PI will contact MMC by 9 A.M. the following morning.

(c) Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction**; 3. a. & b, will be followed, with the exception that in **During Construction**; 3. a., the PI will contact MMC by 8AM the following morning to report and discuss the findings.

b. If night work becomes necessary during the course of construction

(1) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

(2) The RE, or BI, as appropriate, will notify MMC immediately.

c. All other procedures described above will apply, as appropriate.

6. Notification of Completion

a. The Archaeologist shall notify MMC and the RE or the BI, as appropriate, in writing of the end date of monitoring.

Post Construction

1. Handling and Curation of Artifacts and Letter of Acceptance

a. The Archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to MMC; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

b. Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with LDR and the Native American representative, as applicable.

2. Final Results Reports (Monitoring and Research Design And Data Recovery Program)

a. Within three months following the completion of monitoring, two copies of the Final Results Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Archaeological

- Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.
- b. For significant archaeological resources encountered during monitoring, the Research Design And Data Recovery Program shall be included as part of the Final Results Report.
 - c. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.
3. Recording Sites with State of California Department of Park and Recreation
- a. The Archaeologist shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Results Report.

Private Projects Mitigation Monitoring and Reporting Program

HISTORICAL RESOURCES (ARCHAEOLOGY)

Prior to Preconstruction (Precon) Meeting

1. Land Development Review (LDR) Plan Check
 - a. Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for archaeological monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.
2. Letters of Qualification have been submitted to ERM
 - a. Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Historical Resources Guidelines (HRG), has been retained to implement the monitoring program. **If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.**
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Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.

- b. If the Monitor is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for MMC, EAS staff, as appropriate, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.
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3. Human Remains

- a. If human remains are discovered, work shall halt in that area and the following procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) will be taken:
- b. Notification
 - (1) Archaeological Monitor shall notify the RE or BI as appropriate, MMC and the PI if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
 - (2) The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.
- c. Isolate discovery site
 - (1) Work will be redirected from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
 - (2) The Medical Examiner, in consultation with the PI, shall determine the need for a field examination to determine the provenience.
 - (3) If a field examination is not warranted, the Medical Examiner shall determine, with input from the PI, if the remains are or are most likely to be of Native American origin.
- d. If Human Remains are determined to be Native American
 - (1) The Medical Examiner shall notify the Native American Historic Commission (NAHC). By law, **ONLY** the Medical Examiner can make this call.
 - (2) The NAHC will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination.
 - (3) NAHC will identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
 - (4) The PI will coordinate with the MLD for additional coordination.
 - (5) Disposition of Native American human remains will be determined between the MLD and the PI, IF:
 - (a) The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
 - (b) The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner, the landowner or their authorized representative shall re-enter the human remains and all associated grave goods with appropriate dignity, on the property in a location not subject to subsurface disturbance. Information on this process will be provided to the NAHC.
- e. If Human Remains are **NOT** Native American
 - (1) The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.

- (2) The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).
 - (3) If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for reinterment of the human remains shall be made in consultation with MMC, EAS, the land owner and the Museum of Man.
4. Night Work
 - a. If night work is included in the contract
 - (1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 - (2) The following procedures shall be followed.
 - (a) No Discoveries
In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.
 - (b) Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction**; 2.,a. & b, will be followed, with the exception that the PI will contact MMC by 8AM the following morning to report and discuss the findings.
 - b. If night work becomes necessary during the course of construction
 - (1) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 - (2) The RE, or BI, as appropriate, will notify MMC immediately.
 - c. All other procedures described above will apply, as appropriate.
5. Notification of Completion
 - a. The Archaeologist shall notify MMC and the RE or the BI, as appropriate, in writing of the end date of monitoring.

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 - a. The Archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to MMC; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
 - b. Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with LDR and the Native American representative, as applicable.
2. Final Results Reports (Monitoring and Research Design And Data Recovery Program)
 - a. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative) and/or evaluation report, if applicable, which describes the

results, analysis, and conclusions of the Archaeological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.

- b. For significant archaeological resources encountered during monitoring, the Research Design And Data Recovery Program shall be included as part of the Final Results Report.
 - c. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.
3. Recording Sites with State of California Department of Park and Recreation
- a. The Archaeologist shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Results Report.